

REMARKS

The present communication responds to the Office Action mailed August 20, 2004. In that Office Action, the Examiner rejected claims 18-23 under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement, under 35 U.S.C. 112, second paragraph, as being indefinite, and under 35 U.S.C. 102(b) as being anticipated by Wagner.

The above amendments obviate the rejections under 35 U.S.C. 112. The applicants respectfully request reconsideration regarding the rejection under 35 U.S.C. 102(b) because of the amendments, and because Wagner does not teach or suggest the recited piston pump.

Rejection under 35 U.S.C. § 112

Claims 18-23 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Examiner asserted that the claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. More specifically, the Examiner noted that the applicant functionally recites “wherein abutting the suction chamber against the tissue of the patient causes the cut-off valve to open, which places the suction chamber and volume in fluid communication, thereby causing a state of reduced pressure within the suction chamber and bringing the tissue in contact with the dispensing means.” The Examiner indicated that it is unclear how this function is performed.

Claim 18 has been amended to clarify that, after abutting the suction chamber against the tissue of the patient, the cut-off valve may be opened, thereby placing the suction chamber and the reduced pressure within the cylinder in fluid communication, thus causing a state of reduced pressure within the suction chamber and bringing the tissue in contact with the dispensing means. As stated on page 7 of the specification, the cut-off valve may be a manually operable cut-off valve with which the connection line can be can be opened and closed. The applicants therefore submit that at least a manually operable cut-off valve is enabled.

Claims 18-23 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention. The Examiner asserted that claim 18 is incomplete for omitting essential elements, specifically, the structural element(s) that causes the cut-off valve to open by abutting the suction chamber against the skin. As sated above, claim 18 has been amended to clarify that, after abutting the suction chamber against the tissue of the patient, the cut-off valve is opened, thereby placing the suction chamber and the volume of reduced pressure in fluid communication, thus causing a state of reduced pressure within the suction chamber and bringing the tissue in contact with the dispensing means. Suitable valves are known in the art, depicted in at least Figures 3-5, 6 and 8, and set forth in the specification at least in the second full paragraph on page 7 and the first two full paragraphs on page 8.

The applicants thus respectfully submit that the rejections under 35 U.S.C. 112 have been obviated. Reconsideration is requested.

Rejection under 35 U.S.C. § 102

Claims 18-23 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 4,284,077 ("Wagner"). The Examiner asserted that Wagner discloses a device comprising a casing, a suction chamber connected to the casing, a piston pump, a passage interconnecting the suction chamber to the volume, and a cutoff valve. The Examiner argued that, thus, the device of Wagner anticipates the claimed invention. This rejection is traversed at least for the following reasons.

Wagner discloses a suction injection unit with a suction cup at one end and a piston combined with a dosing mechanism at the other end wherein an underpressure is created in the suction cup such that the skin is sucked into the cup and is penetrated by a needle associated with the unit. A suction apparatus controlled by pressurized gas is attached to the unit and is provided with valves to establish an underpressure in the cup:

According to one feature of the invention, a receptacle 69 for accommodating a pressure gas container 51 is arranged parallel to the injector housing 30 ... The receptacle 69 further supports control valves and suction pump extending in the gap between the receptacle and the injector housing 30 ... The pressure gas container 51 including compressed CO<sub>2</sub>, nitrogen or other suitable gas or gas mixture has an outlet sealed by a soft metal. *Wagner, Column 4, lines 48-58.*

[T]he control knob 75 is activated. In so doing, the sealing ring on the inner surface of the knob 75 first closes a valve seat for the pressure relieving conduit 79 and the valve pin 76 displaces the valve plate 74 from the pressurized gas conduit 76 so that pressurized gas from the supply hose 72 is applied through an annular groove in the plunger 82 in the suction selector 81 and a pressure reducing valve 83 into a nozzle 84 of a jet pump 89 thus creating an underpressure that is applied through a suction conduit 80 and the one-way valve 88 into the suction cup 6. *Wagner, Column 6, lines 1-12.*

Thus, a gas container including compressed CO<sub>2</sub>, nitrogen or other suitable gas or gas mixture and a complicated valve assembly are used to create an underpressure.

In contrast, the device of the current invention does not require a gas container or complicated assembly for creating a gas pressure. Claim 18 recites a lockable piston pump such that simple displacement of a piston via a piston rod creates a volume having a state of reduced pressure:

a piston pump comprising a cylinder, a piston, a piston rod, and a lock, a pressure side being provided on one side of the piston and a suction side being provided on the other side of the piston, wherein the piston rod may be operated to displace the piston within the cylinder to create a state of reduced pressure within the cylinder, and wherein the lock is adapted to lock the piston in place to maintain the state of reduced pressure

As also recited in claim 18, this volume of reduced pressure is easily placed in fluid communication with a suction chamber, thereby causing a state of reduced pressure within the suction chamber and bringing the tissue in contact with a dispensing means:

wherein, after abutting the suction chamber against the tissue of the patient, the cut-off valve may be opened, thereby placing the suction chamber and the reduced pressure in fluid communication causing a state of reduced pressure within the suction chamber and bringing the tissue in contact with the dispensing means.

Wagner does not disclose or suggest a piston pump wherein a pressure side is provided on one side of the piston and a suction side is provided on the other side of the piston such that the piston rod may be operated to displace the piston within the cylinder to create a state of reduced pressure. Nor does Wagner disclose a lock. Thus, it is respectfully submitted that claim 18 is not anticipated by Wagner. As each of the remaining claims depend either directly or indirectly from claim 18, the applicants further submit that each of these claims is patentable over Wagner. Accordingly, reconsideration is respectfully requested.

Applicants note the Examiner's comments regarding functional language, but also respectfully observe that claim 18, as amended, includes structural distinctions from Wagner. More specifically, Wagner does not disclose or suggest a piston pump, nor does it disclose the recited lock.

Conclusion

In view of the above amendments and preceding comments, the application now stands in allowable form.


The above amendments should not generate any additional fees, however a petition to extend the time respond is submitted herewith, and the Office is hereby authorized to charge any fee deficiency associated with this response or the petition to Deposit Account 04-1420.

Reconsideration and allowance are respectfully requested.

Respectfully submitted,

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